

Green, LindaE

From: American Oversight FOIA <foia@americanoversight.org>
Sent: Wednesday, August 30, 2017 1:46 PM
To: FOIA HQ
Subject: FOIA Request: EPA-17-0356
Attachments: EPA-17-0356 (EWG Toxic Substances).pdf

Dear FOIA Officer:

Please find attached a request for records under the Freedom of Information Act.

Sincerely,

Sara Creighton
Counsel
American Oversight
foia@americanoversight.org | 202-869-5246
www.americanoversight.org | @weareoversight



August 30, 2017

VIA ELECTRONIC MAIL

Records, FOIA, and Privacy Branch
Office of Environmental Information
Environmental Protection Agency
1200 Pennsylvania Avenue NW (2822T)
Washington, DC 20460
hq.foia@epa.gov

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations for the Environmental Protection Agency (EPA), 40 C.F.R. Part 2, American Oversight and Environmental Working Group (EWG) make the following request for records.

During his tenure as Oklahoma's Attorney General, Scott Pruitt reportedly served as a conduit for industry interests to provide input into government decisionmaking, regularly consulting directly with fossil fuel firms regarding regulations affecting that industry, among other examples.¹

¹ See, e.g., Coral Davenport & Eric Lipton, *The Pruitt Emails: E.P.A. Chief Was Arm in Arm with Industry*, N.Y. TIMES, Feb. 22, 2017, <https://www.nytimes.com/2017/02/22/us/politics/scott-pruitt-environmental-protection-agency.html>; Brady Dennis & Steven Mufson, *Thousands of Emails Detail EPA Head's Close Ties to Fossil Fuel Industry*, WASH. POST, Feb. 22, 2017, https://www.washingtonpost.com/news/energy-environment/wp/2017/02/22/oklahoma-attorney-generals-office-releases-7500-pages-of-emails-between-scott-pruitt-and-fossil-fuel-industry/?utm_term=.187c5a8084fb; Natasha Geiling, *Scott Pruitt's Record Reveals a Long History of Industry Favoritism*, THINKPROGRESS, Jan. 18, 2017, <https://thinkprogress.org/scott-pruitt-epa-oklahoma-record-386f13c8cc1d#.kfhqkxuwc>; Eric Lipton & Coral Davenport, *Scott Pruitt, Trump's E.P.A. Pick, Backed Industry Donors Over Regulators*, N.Y. TIMES, Jan. 14, 2017, <https://www.nytimes.com/2017/01/14/us/scott-pruitt-trump-epa-pick.html>.



In January, at the end of the Obama administration, the EPA proposed a set of rules relating to chemical safety.² Comments on those rules were accepted through March.³ When the final rules were issued in July, they were significantly changed, largely by weakening safety standards in ways that were supported by the chemical industry.⁴

American Oversight and EWG are seeking information to determine the extent to which industry and trade groups, and others with a stake in these rules, may have engaged with Mr. Pruitt and the EPA prior to this decision.

Requested Records

American Oversight and EWG request that EPA produce the following records within twenty business days:

1. A copy of the May 23 memorandum addressing the agency's rules regarding the Toxic Substances Control Act.⁵

² See Proposed Rule, *Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act*, 82 Fed. Reg. 7,562 (Jan. 19, 2017), <https://www.federalregister.gov/documents/2017/01/19/2017-01224/procedures-for-chemical-risk-evaluation-under-the-amended-toxic-substances-control-act>; News Release, *For the First Time in 40 Years EPA to Put in Place a Process to Evaluate Chemicals that May Pose Risk*, EPA.gov, Jan. 13, 2017, <https://www.epa.gov/newsreleases/first-time-40-years-epa-put-place-process-evaluate-chemicals-may-pose-risk>; Stefanie Valentic, *EPA Issues Proposed Rules on Chemical Risk Evaluation*, EHS Today, Jan. 18, 2017, <http://www.ehstoday.com/industrial-hygiene/epa-issues-proposed-rules-chemical-risk-evaluation>.

³ See Proposed Rule, *supra* note 2 (noting that comments closed Mar. 20, 2017).

⁴ See Lynn L. Bergeson & Margaret R. Graham, *Two of Three TSCA Framework Final Rules Published in Federal Register*, NAT'L L. REV., July 20, 2017, <https://www.natlawreview.com/article/two-three-tsc-framework-final-rules-published-federal-register>; 82 Fed. Reg. 33,753 (July 20, 2017) (to be codified at 40 C.F.R. Part 702), <https://www.gpo.gov/fdsys/pkg/FR-2017-07-20/pdf/2017-14325.pdf>; 82 Fed. Reg. 33,726 (July 20, 2017) (to be codified at 40 C.F.R. Part 702), <https://www.gpo.gov/fdsys/pkg/FR-2017-07-20/pdf/2017-14337.pdf>; Melanie Benesh, *New Chemical Safety Rules Show Industry Influence Inside EPA*, EWG, July 24, 2017, <http://www.ewg.org/enviroblog/2017/07/new-chemical-safety-rules-show-industry-influence-inside-epa#.WY2-uHd95MO>.

⁵ The requested memo is referenced in the following articles: Annie Snider & Alex Guillen, *EPA Memo Reveals Staff Concerns About Chemical Safety Rules*, POLITICO PRO ENERGY (June 21, 2017, 9:53 PM), <https://www.politicopro.com/energy/story/2017/06/epa-memo-reveals-staff-concerns-about-upcoming-chemical-safety-rules-158656> (attached hereto as Exhibit A); Annie Snider & Alex Guillen, *EPA Staffers, Trump Official Clashed Over New Chemical Rules*, POLITICO (June 22, 2017, 7:56 PM), <http://www.politico.com/story/2017/06/22/trump-epa-energy-chemicals-clash-239875>.

2. All communications between any of the individuals listed in Appendix A and any of the following trade groups:
 - a. American Chemistry Council (@americanchemistry.com)
 - b. Society of Chemical Manufacturers and Affiliates (@socma.com)
 - c. American Petroleum Institute (@api.org)
 - d. American Fuel and Petrochemical Manufacturers (@afpm.org)
 - e. Dow Chemical (@dow.com)
 - f. DuPont/Chemours (@dupont.com; @chemours.com)
 - g. National Association of Manufacturers (@nam.org)
 - h. National Association of Chemical Distributors (@nacd.com)
 - i. American Chemical Society (@acs.org)
 - j. American Cleaning Institute (@cleaninginstitute.org)
 - k. Consumer Specialty Products Association (@cspa.org)
 - l. Halogenated Solvents Industry Alliance (@hsia.org)
3. All communications between any of the individuals listed in Appendix A and any of the following think tanks regarding chemical safety:
 - a. Heritage Foundation (@heritage.org);
 - b. Heritage Action (@heritageaction.com);
 - c. Cato Institute (@cato.org); or
 - d. Chamber of Commerce (@uschamber.com).

Please provide all responsive records from January 20, 2017, to the date the search is conducted. Please note that we do not wish to obtain copies of any news or press clippings regarding these issues that are otherwise publicly available; accordingly, you may omit press clippings from the documents provided in response to this request, unless the record includes commentary on the press coverage.

In addition to the records requested above, we also request records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

American Oversight and EWG seek all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our request includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

Please search all records regarding agency business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Records of official business conducted using unofficial systems or stored outside of official files is subject to the Federal Records Act and FOIA.⁶ **It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; we have a right to records contained in those files even if material has not yet been moved to official systems or if officials have, through negligence or willfulness, failed to meet their obligations.**⁷

In addition, please note that in conducting a “reasonable search” as required by law, you must employ the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology may have rendered EPA prior FOIA practices unreasonable. **In light of the government-wide requirements to manage information electronically by the end of 2016, it is no longer reasonable to rely exclusively on custodian-driven searches.**⁸ Furthermore, agencies that have adopted the National Archives and Records Agency (NARA) Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians’ files. For example, a custodian may have deleted a responsive email from his or her email program, but EPA’s archiving tools would capture that email under Capstone. Accordingly, we insist that EPA use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. We are available to work with you to craft appropriate search terms. **However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information “only if . . . disclosure would harm an interest protected by an exemption”

⁶ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

⁷ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016) (“The Government argues that because the agency had a policy requiring [the official] to forward all of his emails from his [personal] account to his business email, the [personal] account only contains duplicate agency records at best. Therefore, the Government claims that any hypothetical deletion of the [personal account] emails would still leave a copy of those records intact in [the official’s] work email. However, policies are rarely followed to perfection by anyone. At this stage of the case, the Court cannot assume that each and every work-related email in the [personal] account was duplicated in [the official’s] work email account.” (citations omitted)).

⁸ Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

or “disclosure is prohibited by law.”⁹ If it is your position that any portion of the requested records is exempt from disclosure, we request that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.”¹⁰ Moreover, the *Vaughn* index “must describe *each* document or portion thereof withheld, and for *each* withholding it must discuss the consequences of disclosing the sought-after information.”¹¹ Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”¹²

In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document.¹³ Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

You should institute a preservation hold on information responsive to this request. We intend to pursue all legal avenues to enforce its right of access under FOIA, including litigation if necessary. Accordingly, EPA is on notice that litigation is reasonably foreseeable.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, we welcome an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, we can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records, please also provide responsive material on a rolling basis.

Fee Waiver Request

⁹ FOIA Improvement Act of 2016 § 2 (Pub. L. No. 114-185).

¹⁰ *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).

¹¹ *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis in original).

¹² *Id.* at 224 (citing *Mead Data Central, Inc. v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977)).

¹³ *Mead Data Central*, 566 F.2d at 261.

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107(l), American Oversight and EWG request a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way.¹⁴ Moreover, the request is primarily and fundamentally for non-commercial purposes.¹⁵

Disclosure of the requested information is “in the public interest because it is likely to contribute significantly to public understanding” of government.¹⁶ The interest in how Mr. Pruitt is running the EPA given his conduct as Oklahoma Attorney General is plentiful.¹⁷ The recent relaxations to the proposed rules governing the safety of toxic chemicals raises serious questions about the motivations of top EPA officials.¹⁸ The American people deserve to know which outside individuals and groups are communicating with our nation’s top regulators. This request seeks information that will shed light on which interests are shaping our environmental policy.

This request is primarily and fundamentally for non-commercial purposes.¹⁹ As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight’s financial interest. American Oversight’s mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.²⁰ American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content. For example, after receiving records regarding an ethics waiver received by a senior DOJ attorney,²¹ American Oversight promptly posted the records to its website and published an analysis of what the records reflected about DOJ’s process for ethics waivers.²² As another example, American Oversight has a project called “Audit the Wall,” where the organization is gathering and analyzing information and commenting on public releases of

¹⁴ 40 C.F.R. § 2.107(l)(1).

¹⁵ 40 C.F.R. § 2.107(l)(1).

¹⁶ 40 C.F.R. § 2.107(l)(2)(i)-(iv).

¹⁷ See *supra* note 1.

¹⁸ See *supra* note 4.

¹⁹ 40 C.F.R. § 2.107(l)(3)(i)-(ii).

²⁰ American Oversight currently has over 11,200 page likes on Facebook, and over 33,700 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Aug. 29, 2017); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Aug. 29, 2017).

²¹ *Vetting the Nominees: Solicitor General Nominee Noel Francisco*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/our-actions/vetting-nominees-solicitor-general-nominee-noel-francisco>.

²² *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/news/francisco-travel-ban-learned-doj-documents>.

information related to the administration's proposed construction of a barrier along the U.S.-Mexico border.²³

EWG's interest in the disclosure of the requested records is purely non-commercial. EWG is a 501(c)(3) non-profit public interest organization dedicated to using the power of information to protect public health and the environment. EWG will use the information gathered in furtherance of this mission. EWG has long studied the public health and environmental impacts of pesticides and other toxic chemicals, particularly with regards to children's health. As part of this work, EWG publishes reports and creates consumer-facing resources to educate the public and advocate for health-protective standards. For example, every year EWG releases its Shopper's Guide to Pesticides in Produce to educate consumers about pesticide residues found on conventional produce samples. Like American Oversight, EWG plans to use the information gathered, and its analysis of it, to educate the public through various media including reports, blogs, and press releases.

Accordingly, this request qualifies for a fee waiver.

Conclusion

We share a common mission to promote transparency in government. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Sara Creighton at foia@americanoversight.org or (202) 869-5246. Also, if our request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,



Austin R. Evers
Executive Director
American Oversight



Melanie Benesh
Legislative Attorney
Environmental Working Group

²³ *Audit the Wall*, AMERICAN OVERSIGHT, www.auditthewall.org.



Appendix A

In connection with the above FOIA request, American Oversight and EWG request that EPA search the records of the following individuals:

1. Scott Pruitt, EPA Administrator;
2. Mike Flynn, Acting Deputy Administrator;
3. Wendy Cleland-Hammet, Acting Assistant Administrator of the Office of Chemical Safety and Pollution Prevention;
4. Nancy Beck, Deputy Assistant Administrator of the Office of Chemical Safety and Pollution Prevention;
5. Louise P. Wise, Deputy Assistant Administrator of the Office of Chemical Safety and Pollution Prevention;
6. Jeffrey Morris, Director of the Office of Pollution Prevention and Toxics;
7. Maria Doa, Director of the Chemical Control Division in the Office of Pollution Prevention and Toxics;
8. Ryan Jackson, Chief of Staff;
9. John Reeder, Former Acting Chief of Staff;
10. David Schnare, transition team member;
11. David Kreutzer, transition team member;
12. Myron Ebell, transition team member;
13. Don Benton, Senior Adviser;
14. George Sugiyama, Staffer;
15. Any other political appointees or SES staff (including individuals in administratively-determined positions) in the Office of the Administrator.



Exhibit A



According to the memo, EPA plans to allow its initial analysis on the safety of a chemical to be limited only to some of its uses, rather than the full array of current and likely future uses. | Getty

EPA staffers, Trump official clashed over new chemical rules

By **ANNIE SNIDER** and **ALEX GUILLÉN** | 06/21/2017 09:53 PM EDT | Updated 06/22/2017 07:06 PM EDT

The Trump administration released the nation's most important chemical-safety rules in decades Thursday — but only after making a series of business-friendly changes overseen by a former industry advocate who holds a top post at the EPA.

Career agency employees had raised objections to the changes steered by EPA Deputy Assistant Administrator Nancy Beck, who until April was the senior director of regulatory science policy at the American Chemistry Council, the chemical industry's leading lobbying group. Those include limits on how broadly the agency would review thousands of potentially hazardous substances, EPA staffers wrote in an internal memo reviewed by POLITICO.

Such limits could cause the agency to fail to act on potential chemical uses "that present an unreasonable risk to health or the environment," EPA's top chemicals enforcement official argued in the May 23 memo.

The rules are meant to implement last year's landmark rewrite of the 1976 Toxic Substances Control Act, a major bipartisan achievement in a deeply divided Congress. Both parties agreed that the law needed an update — the original version didn't even allow EPA to ban asbestos, a known carcinogen, and some states had begun to step in and create their own patchwork of regulations for chemicals.

But the Trump administration's steps to implement the law, and Beck's role in particular, are drawing alarm from environmental groups and congressional Democrats.

Melanie Benesh of the Environmental Working Group called Beck the "scariest Trump appointee you've never heard of," and pointed to a 2009 Democratic congressional report that accused Beck of working to delay and undermine EPA's chemical studies during her previous tenure at the OMB.

New Jersey Rep. Frank Pallone, the top Democrat on the House Energy and Commerce Committee, argued in a letter to EPA Administrator Scott Pruitt on Wednesday that Beck's appointment "has the potential to undermine the scientific integrity of EPA's TSCA implementation and the consumer confidence we sought to build with a reformed TSCA." Pallone is seeking information about Beck's involvement with the chemicals rules and the issues she is ethically allowed to work on.

Beck told POLITICO that she has been "very involved" with the rulemaking for the past two months at EPA. She also defended the changes in the rules.

"The development of a rule when you go from proposal to final, or even as you develop a rule, it just evolves over time," she said in an interview Wednesday, before the rules came out. "So I think that this has been a moving target, and will continue to be a moving target until it gets through the OMB review process."

A statement from EPA's senior ethics counsel said Beck did not need to recuse herself from working on the TSCA rules because they are "matters of general applicability." The counsel added that Beck was cleared to consider comments her former employer had submitted.

The American Chemistry Council spent more than \$9 million on lobbying last year, and its employees and PAC donated \$541,000 to federal candidates in the 2016 cycle, giving

Republicans 2½ times as much as it gave Democrats, according to the Center for Responsive Politics.

EPA officials told POLITICO that the issues raised in the memo from the agency's Office of Enforcement and Compliance Assurance were part of a typical intra-agency consultation process.

Jeff Morris, director of EPA's Office of Pollution Prevention and Toxics — the division charged with writing the rules implementing TSCA — said chemical safety officials met with the enforcement office "and talked through their comments, and based on that discussion, we moved forward with the rule. At the end of the day, OECA concurred on our approach."

That doesn't mean the final rules necessarily incorporated OECA's suggestions, he added, but in the end it produced a rule "that we could all support."

Thursday marked the anniversary of the 2016 revamp of the 40-year-old TSCA, which regulates the tens of thousands of chemicals used in the United States. It took Congress two years to hash out the compromise, ultimately winning support from chemical makers and some environmental groups for legislation that beefed up EPA's power to regulate harmful chemicals.

Rather than relying on EPA to prove that a substance was dangerous, the law shifted some of the burden to industry to show a chemical's safety. But TSCA also gave EPA latitude to determine how to go about examining thousands of chemicals — effectively setting the scope of the review for substances ranging from corrosive chemicals used in refining to the paints and plastics in children's toys.

EPA's plans to implement TSCA came out Thursday in the form of three final regulations known as the "framework rules." One rule lays out how EPA will set priorities for its assessments of chemicals, dividing them into high- and low-risk categories. Another rule details methods for studying the health and environmental risks of each chemical. And the third culls from EPA's list any substances not used commercially since 2006.

That last change will ultimately shrink the inventory from 85,000 chemicals to around 30,000, once companies weigh in on which chemicals they still use, according to a recent estimate from Jim Cooper, a senior petrochemical adviser at American Fuel and Petrochemical Manufacturers. Future use of those chemicals will be prohibited until the agency reviews them.

Pruitt has made TSCA a top priority under his "back to basics" strategy, which has been marked by the rollback of several Obama-era environmental regulations, especially major rules on climate change. Funding for TSCA implementation would be increased under the Trump administration's 2018 budget proposal, while other chemical safety programs and nearly every other aspect of EPA would be cut sharply.

"The activities we are announcing today demonstrate this Administration's commitment to providing regulatory certainty to American businesses, while protecting human health and the environment," Pruitt said in a statement releasing the rules.

EPA's political leaders have pressed the agency's staff to meet the law's aggressive deadlines for writing new rules and evaluating individual chemicals, but environmentalists say they are more concerned with the substance of the implementation rules. Congressional Democrats and green activists were already worried about the approach an anti-regulatory administration might take to toxic substances, especially given President Donald Trump's past support for asbestos, which he once complained got a "bad rap."

Those fears rose with the arrival of Beck, who worked as an OMB analyst for a decade before joining the American Chemistry Council. She represented the council at a March Senate hearing where she criticized the Obama administration's proposed TSCA implementation.

EPA career employees, in turn, have expressed concern about the changes the implementation rules have taken since Beck arrived.

The staff memo reviewed by POLITICO was sent by the head of EPA's Waste and Chemical Enforcement Division to Wendy Cleland-Hamnett, the acting assistant administrator for EPA's chemical office, on the same day part of the final rules package was sent to the White House for review. It laid out a number of concerns about changes the Trump administration made to a section of the Obama EPA's January proposal governing which chemicals warrant the most thorough safety evaluation.

Among those concerns was that EPA would consider only a limited set of uses for a chemical when deciding whether it warrants further scrutiny and then determining the risks to human health, rather than examining all the ways people could be exposed to it. For instance, while most Americans think of asbestos as a building material, its largest use by far in the U.S. today is in equipment used to make chlorine gas. Chemicals manufacturers have argued that that use needn't be considered, saying humans are highly unlikely to come in contact with the asbestos during that process, but environmentalists

contend that EPA shouldn't ignore it when deciding how risky the chemical is for human health.

In an interview, Cleland-Hamnett said EPA is aiming to set the highest priorities for the chemical uses that present the greatest risk, and that it wasn't prohibiting a broader analysis.

"Not that those are the only uses we would evaluate, but we do want to make sure that we're evaluating those uses," she said. "So I think we've addressed the concern that we might not evaluate the uses that could prevent unreasonable risk."

This issue has been a chief sticking point among environmentalists, public health advocates and the industry. Chemical manufacturers may produce a substance for a specific use, said Richard Denison, lead senior scientist at the Environmental Defense Fund, but once it's put on the market, it can end up being used in a wide variety of ways.

"That chemical that the company may intend to use solely in industrial settings may very well be bought by another company that decides to put it in a consumer product that is sold at your local hardware store," he said.

But Mike Walls, vice president of regulatory and technical affairs at the American Chemistry Council, said the process should differentiate among various uses of each chemical to determine specific restrictions for each.

"Risks can be managed along a spectrum of measures, running from a ban at its most extreme, to things like labeling or warning requirements," he said. "So that risk-evaluation process is really critical."

EPA also released a decision on the scope of its first 10 chemical reviews, which include asbestos, several dry-cleaning chemicals and a purple dye thought to hurt fish and other aquatic life. Industry groups are closely watching whether EPA decides to review those chemicals for all possible exposures, or whether it will limit its review to narrow, specific uses. Further study of those chemicals will take years.

But even as greens have raised alarms about the efficacy of the new chemicals law under the Trump administration, both sides say industry has an interest in making sure it works. After all, it was lack of public trust in the old system that brought everyone to the table a year ago to fix it, said Dimitri Karakitsos, who negotiated the chemicals overhaul measure as a staffer for Senate Republicans.

"Industry and Republicans care very much about a credible system that works, and so does EPA," said Karakitsos, now a partner at the law firm Holland & Knight. "If implementation isn't happening, states ramp up activity again, and that can result in an inconsistent patchwork of regulations and significant impediments to interstate commerce."